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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT - 2 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Applications of WorldCom, Inc. and)
Howard A. White, Trustee, for)
Transfers of Control of)
MCI Communications Corporation and)
Request for Special Temporary Authority)

File No. _____
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To: The Commission

Common Carrier Bureau
Network Service Division
Office of the Chief

APPLICATIONS AND REQUEST FOR SPECIAL TEMPORARY AUTHORITY
VOLUME I

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Dated: October 1, 1997

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VOLUME I
TABLE OF CONTENTS

SUMMARY	iii
I. INTRODUCTION AND OVERVIEW	1
A. WorldCom is Initiating an Exchange Offer for All of MCI's Issued and Outstanding Stock	1
1. The Transaction Achieves a Significant Milestone in the Evolution of Telecommunications Competition	1
2. A Two-Step FCC Approval Process is the Appropriate Procedure for the Commission to Address the Offer and Subsequent Merger Transaction	3
a. The Transaction Contemplates Use of an Interim Voting Trust Arrangement to Complete the Exchange Offer Pending Commission Approval of the Transfer of Control to WorldCom	5
b. Use of a Voting Trust Permits Timely and Orderly Completion of the Exchange Offer in a Manner Fully Consistent with Commission Procedures	6
B. Description of the Consolidated Applications	8
II. REQUEST FOR SPECIAL TEMPORARY AUTHORITY	10
A. In Reviewing this Request, the Commission Should Follow the Procedures Established in the FCC <i>Policy</i> <i>Statement</i> to Avoid Unnecessary Processing Delays in the Context of Tender Offers and Proxy Contests	10
1. Use of These Two-Step Procedures Achieves the Policy Statement's Objectives of Maintaining FCC Neutrality and Accommodating Other Federal Laws Intended to Protect Shareholder Rights	10

2.	The Commission Has Explicitly Held that the Policy Statement and Related Procedures are Applicable to All Commission-Regulated Services	12
3.	These Applications Comply with the <i>Policy Statement's</i> Processing Procedures and Requirements	15
B.	The Trustee is Eminently Qualified to Serve in that Capacity	17
C.	The Terms and Conditions of the Voting Trust Fully Conform to the Commission's Requirements	19
D.	Conclusion: The Commission Should Promptly Grant the Requested STA and Interim Transfer to the Independent Trustee	23
III.	THE PUBLIC INTEREST BENEFITS OF THE TRANSACTIONS ARE SUBSTANTIAL AND PERSUASIVE.	24
A.	The Merger of MCI and WorldCom Furthers the Public Interest Because it Will Enhance Competition in Multiple Sectors of the Telecommunications Industry	24
B.	The Pro-competitive Merger of WorldCom and MCI Will Result in Substantial Enhancement of Local, Interexchange, and International Competition	28
1.	Numerous Synergies, Efficiencies, and Economies Will be Achieved Through the Merger of WorldCom and MCI	28
2.	Local Services Competition Will be Particularly Enhanced from the Merger of WorldCom and MCI	32
3.	Substantial Enhancement of International Services Competition Will Likely Result from the Merger of WorldCom and MCI	35

C.	The Merger Will Accelerate Competition Without Raising Any of the Competitive Concerns Sometimes Raised by Mergers Involving Carriers with Market Power	38
1.	The Merger Will Accelerate the Development of Competition by Creating a Leading and Innovative Provider of Integrated “One-Stop Shopping” For Communications Services	39
2.	MCI and WorldCom’s Lack of Market Power Avoids Anti-Competitive Concerns	40
D.	Conclusion: The Commission Should Promptly Approve the Applications Because the Merger of WorldCom and MCI Will Enhance Competition and Otherwise Further the Public Interest	42

IV. EXHIBITS

- A. Voting Trust Agreement
- B. Trustee’s *Curriculum Vitae*
- C. FCC Forms 159 Associated with the Request for Special Temporary Authority

SUMMARY

WorldCom, Inc. ("WorldCom" or "Transferee") is commencing an Exchange Offer (the "Offer") for all the issued and outstanding stock of MCI Communications Corporation ("MCI"). WorldCom respectfully submits that, as has been the case with the series of previous acquisitions by WorldCom in recent years, telecommunications customers, shareholders, and the general public will realize extraordinary benefits from a merger between MCI and WorldCom. WorldCom and MCI share similar histories as pioneers in the introduction of competition to the telecommunications marketplace through innovation, agility, and rapid growth. Indeed, these two companies are the paradigm for the American entrepreneurial spirit -- they have both forged significant inroads into industry sectors long dominated by mammoth incumbent providers and have been among the first to offer consumers a choice of providers for local, long distance, data, and other services. Combined, the two companies will accelerate competition -- especially in local markets -- by creating a company with the capital, marketing abilities, and state-of-the-art network to compete against incumbent carriers.

Because of the pendency of the proposed acquisition by British Telecommunications plc ("BT") of MCI (the "BT-MCI Acquisition"), this Offer is what is colloquially termed a "hostile" tender offer. WorldCom seeks therefore to prosecute the Offer in a timely and orderly manner, so that MCI's shareholders may consider it simultaneously with their consideration of the revised BT acquisition proposal. Accordingly, consistent with well established Commission procedures, WorldCom hereby requests that the Commission grant it Special Temporary Authority ("STA") for an interim transfer of the stock of MCI and its

licensee subsidiaries to an independent Trustee, Professor Howard A. White ("Trustee"), of St. John's University School of Law, pursuant to the terms of the attached Voting Trust Agreement, pending Commission consideration of the applications requesting a transfer of control to WorldCom.

The provisions of the Voting Trust Agreement and the application procedures utilized in this Consolidated Application fully conform to the policies and procedures of the Commission's *Policy Statement on Tender Offers and Proxy Contests*, which was adopted specifically to address this type of corporate ownership contest. Under the *Policy Statement*, the Commission will consider on an expedited basis STA requests and related transfer applications proposing an interim transfer to an independent trustee, pending Commission processing under its usual procedures of related applications proposing a transfer of control to the offeror.

This Consolidated Application therefore consists of three parts. Volume I includes general information pertaining to the transaction and all the applications, including the STA request; information concerning the voting trust and trustee; and a discussion of the public interest benefits of the proposed transaction. Volume II contains the "Step I" STA Applications pertaining to the proposed transfer of shares from the Shareholders of MCI to the Trustee. Volume III contains the "Step II" Applications seeking approval of a transfer of control from the Trustee to WorldCom.

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APPLICATIONS AND REQUEST FOR SPECIAL TEMPORARY AUTHORITY

VOLUME ONE

I. INTRODUCTION AND OVERVIEW

A. WorldCom is Initiating an Exchange Offer for All of MCI's Issued and Outstanding Stock.

1. The Transaction Achieves a Significant Milestone in the Evolution of Telecommunications Competition.

WorldCom, Inc. ("WorldCom" or "Transferee") is commencing an Exchange Offer (the "Offer") for all the issued and outstanding stock of MCI Communications Corporation ("MCI").¹ WorldCom respectfully submits that, as has been the case with the series of other acquisitions by WorldCom in recent years, telecommunications customers, shareholders, and the general public will realize substantial benefits from a merger between

¹ Related documents filed with the Securities and Exchange Commission ("SEC") may be obtained from, among other sources, the SEC's Electronic Data Gathering, Analysis and Retrieval (EDGAR) System which can be accessed through the SEC's web site whose Uniform Resource Locator ("URL") is <<http://www.sec.gov>>.

MCI and WorldCom.² This transaction will achieve a significant milestone in the history of the telecommunications industry, by bringing together two pioneering companies in competitive long distance, local, international, and advanced data services. WorldCom and MCI share similar entrepreneurial legacies and experiences in newly competitive markets. They have a common history of innovation, agility, and growth, and they share a mutual vision of the future. Indeed, these two companies are the paradigms for the American entrepreneurial spirit. By complementing the operating and management expertise of WorldCom with the skills and experience of MCI, the merger of MCI and WorldCom will create one of the world's leading telecommunications carriers (particularly in the fastest-growing segments of the global telecommunications industry) with the combined expertise to meet the expanding and diverse needs of sophisticated business and residential customers.

The combination of advanced fiber-based local city networks, high capacity transoceanic cables, and state-of-the-art global long distance and data networks well position the combined company to become a pre-eminent provider of advanced one-stop-shopping telecommunications services. The contribution of WorldCom's domestic local networks,³

² See Remarks of Commissioner Susan Ness Before the Joint Meeting of the NARUC Communications and International Relations Committees, San Francisco, California (July 23, 1997) at 7, where the Commissioner said: "Mergers, as you know, can be procompetitive or anticompetitive. Procompetitive mergers put together companies that can bring an increased level of competition to the marketplace. An example would be the merger of MFS and LDDS." The substantial public interest benefits of the proposed transactions are discussed, *infra*, in Section III.

³ See, e.g., New Paradigm Resources Group, Inc. & Connecticut Research, 1997 Annual Report on Local Telecommunications Competition at 438-50 ("Paradigm Report").

with an established, facilities-based presence in over 50 U.S. metropolitan areas, will greatly accelerate MCI's local services entry strategy and result in significant savings, efficiencies, and economies of scale and scope for the combined company. By creating a more effective and multi-faceted carrier in the local exchange sector, the proposed merger will significantly enhance competitive choice for U.S. telecommunications customers, and advance, further than perhaps any other initiative, realization of the underlying intent of Congress and the Commission in implementing the Telecommunications Act of 1996.

2. A Two-Step FCC Approval Process is the Appropriate Procedure for the Commission to Address the Offer and Subsequent Merger Transaction.

The Offer and proposed subsequent merger (the "Merger" and, collectively with the Offer, the "Transactions") will enable WorldCom to acquire the entire equity interest in MCI. Because MCI directly and indirectly holds numerous cable landing licenses⁴ and Title II and Title III radio licenses and authorizations issued by the Commission (the "MCI

⁴ See "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S. C. §§ 34 - 39 (the "Cable Landing License Act").

Authorizations”),⁵ consummation of the Transactions is subject to, among other things, prior Commission approval of the applications, filed concurrently herewith, for transfer of control of MCI to WorldCom. As the Commission is aware, there is currently pending a proposed acquisition by British Telecommunications plc (“BT”) of MCI (the “BT-MCI Acquisition”),⁶ which has been endorsed by the Board of Directors of MCI. The WorldCom Offer is

⁵ MCI holds authorizations for “international wireline facilities, and a variety of wireless facilities, including point-to-point microwave stations, earth station licenses, private telephone maintenance radio service licenses, private business radio licenses, private aircraft stations licenses, and an 800 MHZ air-ground radiotelephone license . . . used to provide voice and video services. . . . [as well as] submarine cable landing licenses and a direct broadcast satellite (DBS) license.” In the Matter of The Merger of MCI Communications Corporation and British Telecommunications plc, *Memorandum Opinion and Order*, GN Dkt. No. 96-245, FCC 97-302 at ¶ 21 (rel. Sept. 24, 1997) (“BT/MCI Order”)

While WorldCom has attempted to obtain from the Commission’s public records a complete list of these authorizations, *see* Exhibit IV.C, Transferee is unable at this time to confirm that this listing represents a full compilation of the numerous authorizations and their respective licensees since MCI’s Board of Directors has not endorsed the Exchange Offer and MCI’s management has not participated in or reviewed the license compilation in Exhibit IV.C. Transferee respectfully requests, therefore, that the Commission deem these Applications to encompass all authorizations held by MCI or its subsidiaries. In the case of several MCI licenses, it should be noted that Transferee has not requested transfers of control for two public coast stations whose applications for transfer of control from MCI to a third party, Globe Wireless, Inc., were granted in May 1997. *See* Applications of Globe Wireless, Inc. For Public Coast Stations KPH and WCC, *Memorandum Opinion and Order*, FCC File Nos. 878286 and 878287, 12 FCC Rcd. 6002 (1997). The Applicants presume that these transactions were consummated, given the MCI request for dismissal of the corresponding applications for transfer of the authorizations to BT.

⁶ *See BT/MCI Order, supra* note 5, at ¶ 1.

competing with the BT-MCI Acquisition and is, at this time, therefore, what is colloquially termed a “hostile” tender offer.⁷

a. The Transaction Contemplates Use of an Interim Voting Trust Arrangement to Complete the Exchange Offer Pending Commission Approval of the Transfer of Control to WorldCom.

The effectuation of the Transactions is expected to be conducted in accordance with procedures applied in previous situations involving tender offers for the shares of communications firms regulated by the Commission. Subject to receipt of the Commission’s approval of the Request for Special Temporary Authority⁸ (“STA”) and of the “Step I” transfer applications associated with that request⁹ included in this Consolidated Application, as shares of stock of MCI are tendered, they will be placed into an interim voting trust¹⁰ (the “Voting Trust”) under the control of an independent trustee, Professor Howard A. White,¹¹

⁷ Pursuant to the terms of the Exchange Offer, WorldCom has announced its intent to purchase all of MCI’s issued and outstanding common voting stock, including those shares held by BT, together with the associated “poison pill” rights. The Offer is governed by, among other things, the tender offer rules of the Securities and Exchange Commission (“SEC”) pursuant to Section 14(D) of the Securities and Exchange Act of 1934, as amended (the “Exchange Act”). A Form S-4 Registration Statement is being filed with the SEC in connection with the Offer. *See supra* note 1.

⁸ *See infra* Section II.

⁹ *See infra* Section I.B and the applications contained in Volume II of this Consolidated Application.

¹⁰ *See infra* Sections I.B and II.C and Exhibit IV.A.

¹¹ *See infra* Section II. B and Exhibit IV.B.

under a Voting Trust Agreement.¹² If the Offer is completed, following Commission approval of the related "Step II" transfer of control applications,¹³ the Voting Trust will be terminated and the tendered MCI shares will be transferred to WorldCom. Upon such transfer, a wholly owned subsidiary of WorldCom, TC Investments Corp., will merge into and with MCI. MCI, as the surviving company following the Merger, will become a wholly owned subsidiary of WorldCom. In the event that the Offer is not completed, the Trustee will sell the tendered stock to third parties pursuant to the terms of the Voting Trust Agreement, and the Voting Trust will terminate.

b. Use of a Voting Trust Permits Timely and Orderly Completion of the Exchange Offer in a Manner Fully Consistent with Commission Procedures.

Subject to Commission approval and issuance of the STA requested herein, the Voting Trust has been established and an independent trustee appointed in accordance with the provisions of Section 218 of the Delaware General Corporation Law and the provisions of the Commission's *Policy Statement on Tender Offers and Proxy Contests*¹⁴ to facilitate

¹² See *infra* Section II.C and Exhibit IV.A.

¹³ See *infra* Section I.B and the applications contained in Volume III of this Consolidated Application.

¹⁴ Tender Offers and Proxy Contests, *Policy Statement*, 59 Rad. Reg. 2d (P & F) 1536 (1986) ("*Policy Statement*"), appeal dismissed *sub nom. Office of Communications of the United Church of Christ v. FCC*, 826 F.2d. 101 (D.C. Cir. 1987). See, generally, Stephen F. Sewell, *Hostile Tender Offers for Corporations Holding Licenses Issued by the Federal Communications Commission*, 49 FED. COMM. L.J. 167 (1996).

the timely and orderly receipt of and payment for the tendered MCI shares (the "Shares").¹⁵

Pursuant to two-step transfer procedures specifically tailored by the Commission to address the special need for expedited processing in the context of hostile tender offers, WorldCom is herein requesting Special Temporary Authority from the Commission for an interim transfer of MCI shares to an independent voting trustee empowered to receive and vote the Shares until, among other prescribed events, the Commission completes action on the applications for transfer of control of MCI to WorldCom. Given the extreme time sensitivity of this transaction and the need to harmonize these procedures with the requirements of various federal securities laws, WorldCom respectfully requests, as has been the case in other tender offer proceedings,¹⁶ expeditious Commission review of the first step of this transfer arrangement.

¹⁵ The provisions of the Voting Trust are discussed, *infra*, in Section II.C. A copy of the Voting Trust Agreement is attached as Exhibit IV.A. In the Commission's *Policy Statement*, the Commission recognized that the use of voting trust agreements conforming to the standards of the *Policy Statement* and related decisions provides an appropriate mechanism to facilitate tender offer transactions and accommodate the various laws and regulations relating to transactions of this type. *Policy Statement*, *supra* note 14, at 1567.

¹⁶ This procedure has been used in other case involving hostile tender offers. See, e.g., CNCA Acquisition Corp., *Memorandum Opinion and Order*, 3 FCC Rcd. ("Viacom") 6088 (1988) ("CNCA"); Viacom, Inc., *Memorandum Opinion and Order*, 8 FCC Rcd. 8439 (1993) and QVC Network, Inc., *Memorandum Opinion and Order*, 8 FCC Rcd. 8485 (1993) ("QVC") (approving simultaneously the STA requests of competing offerors).

B. Description of the Consolidated Applications.

WorldCom hereby seeks authority from the Commission for transfer of control of MCI from MCI's current shareholders to WorldCom.¹⁷ A two-step transfer of control is required in this instance because routine processing of a single-step transfer of control application may substantially delay and thereby prejudice prosecution of WorldCom's "hostile" tender offer. In particular, in the absence of a two-step transfer process, third parties would be afforded a protracted period to erect barriers to the Offer and otherwise interfere with the ability of MCI shareholders to make an informed decision. This would be contrary to the underpinnings of the securities laws, which are predicated on competitive neutrality.¹⁸ Special Temporary Authority is therefore requested for a temporary, interim transfer of MCI shares to an independent voting trustee, Professor Howard A. White of the St. John's University School of Law ("Trustee" and, collectively with WorldCom, the "Applicants"),¹⁹ who will receive and vote the shares of MCI stock tendered in response to

¹⁷ The applications submitted in this Consolidated Application are filed pursuant to Sections 63.18(e)(5) of the Commission's Rules with respect to the Section 214 authorizations; pursuant to the Cable Landing License Act and Sections 1.767 and 63.18(e)(5) with respect to the submarine cable landing licenses; and pursuant to Sections 21.39, 22.137, 25.118, 80.29, 87.31, 90.75, 90.79, 90.81, 90.153, and 100.80 with respect to the radio authorizations. 47 C.F.R. §§ 1.767, 63.18(e)(5), 87.31, 90.75, 90.79, 90.81, 90.153, and 100.80 (1996).

¹⁸ *Policy Statement*, *supra* note 14, at 1555 (citing *Edgar v. MITE Corp.*, 457 US 624, 633 and note 9 (1982)).

¹⁹ Professor White's qualifications to serve in this position are demonstrated, *infra*, in Section II.B; *see also* Exhibit IV.B.

the Offer, pursuant to the terms of the Voting Trust, *see* Exhibit IV.A, pending approval by the Commission of the applications for transfer of control of MCI to WorldCom.

This Consolidated Application therefore includes the following discrete sections:

- (1) Applications requesting Commission approval of a proposed interim transfer of shares from the shareholders of MCI to the Trustee (the "Step I Applications");²⁰
- (2) A request for Special Temporary Authority (the "STA Request") for the first "Step I" set of transfer applications from the shareholders of MCI to the Trustee to be considered on an expedited basis pursuant to the Commission's *Policy Statement on Tender Offers and Proxy Contests*; and
- (3) A second, "Step II" set of transfer applications requesting authority for a transfer of control of MCI from the Trustee to WorldCom (the "Step II Applications", and, collectively with the Step I Applications and the STA Request, the "Applications").

A separate filing fee is being submitted for each of the three applications associated with each radio license and with the Section 214 transfer of control application.

Volume I, in addition to the STA Request, includes general background information relating to all of the Applications, including a discussion of the public interest benefits of the proposed transaction and the relevant public interest factors governing use of the voting trust arrangement. Volume II contains the Step I Applications pertaining to the interim transfer of stock from MCI's current shareholders to the Trustee. Volume III contains the Step II

²⁰ The Commission has previously waived the requirement of the transferors' signatures' being affixed to transfer applications and has rejected arguments for dismissal of applications based on their contingent nature resulting from the uncertainties attending consummation of tender offers. Applications of Continental Tel. Corp., *Memorandum Opinion and Order*, 41 F.C.C.2d 957 at ¶ 7 (1973). The Applicants respectfully request that the Commission similarly waive the transferor signature requirement in the context of the Step I applications.

Applications for the proposed transfers from the Trustee to WorldCom²¹ and the ownership information exhibits with respect to MCI and WorldCom.²²

II. REQUEST FOR SPECIAL TEMPORARY AUTHORITY

A. In Reviewing this Request, the Commission Should Follow the Procedures Established in the FCC *Policy Statement* to Avoid Unnecessary Processing Delays in the Context of Tender Offers and Proxy Contests.

1. Use of These Two-Step Procedures Achieves the *Policy Statement's* Objectives of Maintaining FCC Neutrality and Accommodating Other Federal Laws Intended to Protect Shareholder Rights.

The proposed transaction has been structured to comply with the special procedures established by the Commission for processing applications for transfer of control in the context of tender offers and proxy contests. *See generally, Policy Statement.* In order to accommodate the objectives of the securities laws (including the Williams Act and the Securities Exchange Act)²³ without foreclosing execution of the Commission's mandate to review proposed transfers of control of its licensees under the public interest standard, the Commission -- over a decade ago -- established specially-tailored procedures that grant expeditiously Special Temporary Authority to an interim voting trustee, who may

²¹ Applicants request that any STA granted in response to this Request and the Applications be deemed to cover all licenses and authorizations issued to MCI or any of its direct and indirect subsidiaries, regardless of whether such licenses or authorizations have been listed herein.

²² The enclosed computer diskette contains the text of the entire Consolidated Application, except for FCC Forms 159, 703, and 704. (The exhibits to those forms are included.)

²³ 15 U.S.C. § 78n (1994).

consummate a tender offer for the target firm pending the Commission's review of the offeror's transfer application.

The Commission has long recognized that time is of the essence in the context of hostile tender offers. In particular, it has found that expedited processing procedures are required in order to ensure that the Commission can remain neutral as to the outcome of the control contest and that the Commission's procedures are not manipulated so as to advantage one contestant over the other or, as a practical matter, preclude the use of tender offers to obtain control of communications companies.²⁴ In this regard, the Chief of the Commission's Mass Media Bureau recently stated that, "[n]eutrality demands that the Commission's actions not favor any party in the contest for corporate control inherent in hostile tender offer proceedings."²⁵ Moreover, the Commission has found, as a general matter, that tender offers present precisely the extraordinary circumstances warranting

²⁴ *Policy Statement, supra* note 14, at 1539-40, 1570; Rogers Communications, Inc., *Memorandum Opinion and Order*, 9 FCC Rcd. 7350, 7355 at ¶ 12 (1994) ("*Rogers*"); L.P. Media, Inc. and G. William Miller, Trustee, *Memorandum Opinion and Order*, 102 F.C.C.2d 1276 at ¶ 12 (1985) ("*L.P. Media*"); CNCA, 3 FCC Rcd. at 6090. *See also* *Edgar v. MITE*, 457 US 624, 633 (1982) (construing the Securities Exchange Act of 1934, as amended by the Williams Act, 15 U.S.C. §§ 78n (d) - (f), as intended to ensure governmental neutrality in tender offer situations).

²⁵ Letter from Roy J. Stewart, Chief, MM, to Thomas J. Hutton, Esq., counsel to ITT Corporation, DA 97-1872 (Aug. 28, 1997).

issuance of STAs even in contexts where grant of STAs is normally restricted.²⁶ The *Policy Statement* provides for public participation in this abbreviated first step process by allowing a brief period for interested parties to file informal comments or objections in connection with the proposed transfer of shares to the trustee.²⁷

2. The Commission Has Explicitly Held that the *Policy Statement* and Related Procedures are Applicable to All Commission-Regulated Services.

Although the issuance of the *Policy Statement* was initially prompted by a number of contested proceedings involving broadcast station licensees, the Commission has explicitly stated that the expedited procedures would be applicable “in all situations involving a tender offer of a communications company.”²⁸ Since issuing the *Policy Statement*, the Commission has applied the tender offer policies in cases involving common carrier Cable Antenna Relay Stations (“CARS”) and cellular radio authorizations.²⁹ Given the underlying ameliorative policies and express language of the *Policy Statement*, it is also

²⁶ In *Rogers*, reviewing cases in which STAs had been authorized in tender offer situations in analyzing the scope of its authority to grant STAs under Section 309(f) of the Communications Act, the Commission noted that it had found in *L.P. Media* that “it is the circumstances presented by the tender offer itself that are “extraordinary,” because of the need for expedition to permit shareholders to consider the tender offer.” *Rogers*, *supra* note 24, at 7354 (citing *L.P. Media*, 102 F.C.C. 2d 1216, 1285 (1985)). In the *Policy Statement*, *supra* note 14, at 1539, the Commission expressly found that Section 309(f) authorizes the FCC to issue STAs to enable operation of a station by a transferee.

²⁷ *Policy Statement*, *supra* note 14, at 1563 n. 124.

²⁸ *Id.* at 1569 n.147 and cases cited therein; *see also CNCA*, 3 FCC Rcd. 6088 (cellular radio authorizations); *Rogers*, 9 FCC Rcd. 7350 (CARS licenses).

²⁹ *Rogers*, 9 FCC Rcd. 7350 (CARS authorizations); *CNCA*, 3 FCC Rcd. 6088 (cellular radio licenses).

appropriate to apply these procedures to the multiple Direct Broadcast Satellite, common carrier, and private radio authorizations that are the subject of the instant Applications. Because the inherent nature of a tender offer makes time of the essence, there will be irreparable harm to MCI and WorldCom shareholders if the tender offer is subjected to protracted delay or regulatory gamesmanship by third parties.³⁰ It is also entirely consistent with the *Policy Statement* to apply the expedited two-step procedures in the context of the transfer of control of the Section 214 international authorizations and submarine cable licenses held by MCI and its subsidiaries. In many cases involving transfers of control to common carriers already holding Section 214 international authorizations, and especially when, as here, there are no controlling foreign ownership or dominant carrier considerations,³¹ the International Bureau has granted STAs under Section 309(f) of the Communications Act, 47 U.S.C. § 309(f), and Section 63.04 of the Commission's Rules, 47 C.F.R. §63.04, to permit transactions to close pending final action on the proposed transfer of control, even in contexts where no independent voting trustees were involved and where

³⁰ See, e.g., *Rogers*, 9 FCC Rcd. at ¶¶ 22-24 (finding it appropriate to apply the two-step voting trust and STA procedures to applications for transfer of control of a CARS licensee in the context even of a once-hostile tender offer that had become a friendly tender offer); *L.P. Media*, 102 F.C.C.2d 1276 (decision issued before the adoption of the *Policy Statement* applying these procedures to broadcast applications).

³¹ WorldCom and its subsidiaries have already been found non-dominant on all routes to destination countries in which they have affiliate carriers. See, e.g., WorldCom, Inc., File No. I-T-C-97-008, *Order Authorization and Certificate*, DA 97-1102 (Chief, Telecom. Div., Int'l Bur., June 5, 1997) (declaring WorldCom non-dominant on the U.S.-Israel route).

no extraordinary, time-sensitive factors were implicated.³² An STA is particularly appropriate in the case of a Section 214 transfer of control application since, unlike an application for transfer of control of a Title III radio licensee, it is not generally considered a restricted proceeding, presumably because it does not involve a license for a unique facility.³³ Given this precedent, it is entirely appropriate for the Commission to apply the *Policy Statement's* two-step processing procedures to all the applications for transfer of control of MCI Authorizations on a consolidated basis.

³² See, e.g., International Bureau Speeds Processing Through the Expanded Use of Grant Stamp and Status Conferences, *Public Notice*, Report No. IN 95-12 (Jun. 6, 1995) (establishing "grant stamp" procedures for issuance of STAs with respect to Section 214 authorizations); see also Telemarketing Corporation of Louisiana, *Memorandum Opinion and Order*, 5 FCC Rcd. 7263, 7263 at ¶ 6 n.5 (1990) (noting the prior grant of an STA with respect to the subject transfer of control); TMC Communications, Inc., *Memorandum Opinion and Order*, 5 FCC Rcd. 2466, 2466 at ¶ 1 n.1 (1990) (noting the prior grant of an STA with respect to the subject transfer of control).

³³ Moreover, it is common procedure, as demonstrated in the processing procedures applied to the applications filed in connection with the proposed acquisition of MCI by BT, for related proceedings involving transfers of multiple authorizations to be handled in a single, consolidated proceeding, rather than being subjected to duplicative processing under different sets of procedures. See *BT/MCI Order*, *supra* note 5, at 1; see also MCI Communications Corporation and British Telecommunications plc Seek FCC Consent for Proposed Transfer of Control, *Public Notice*, GN docket No. 96-245, DA 96-2079 at 1-2 (Dec. 10, 1996) (consolidating the various applications under the Cable Landing License Act and Sections 214(a) and 310(d) of the Commission's Rules for administrative convenience and as non-restricted proceedings and noting that Section 214 proceedings are non-restricted even if formally opposed although the filing of oppositions makes Section 310(d) and cable landing license proceedings restricted).

3. These Applications Comply with the *Policy Statement's* Processing Procedures and Requirements.

As described above, the Applicants are proceeding under the Commission's two-step transfer of control procedures in order to pursue the Offer on an expedited basis consistent with the regulatory requirements of other government agencies. With respect to the first step, the Applicants request an expedited grant of Special Temporary Authority for a temporary, interim transfer of the Shares from the shareholders of MCI to an independent voting trustee, Professor Howard A. White of St. John's University School of Law ("Trustee"). Grant of the requested authority would permit the Trustee to accept, hold, and vote the tendered shares of MCI stock pending Commission action on the Step II Applications to transfer control of MCI and its licensee subsidiaries to WorldCom. As demonstrated below, the terms of the Voting Trust are consistent with applicable Commission requirements,³⁴ and the Trustee has the requisite qualifications and independence to perform the duties and obligations entrusted to him in the Voting Trust in accordance with well established Commission policies.³⁵

³⁴ The Commission reviews trust instruments "to ensure that the offeror is restricted from exercising direct or indirect control over the licensee from the time the tender offer is consummated until all requisite regulatory approvals are obtained, the trustee is effectively insulated from the offeror's influence, and the trustee's obligation as a temporary caretaker charged with preserving the nature and character of the corporation is properly delineated." *Rogers*, 9 FCC Rcd. at 7364, citing *Policy Statement*, *supra* note 14 at 1578-81.

³⁵ "In reviewing requests for special temporary authorizations in the context of tender offers, the Commission confines its examination to the trust instrument, the proposed trustee's qualifications and, if challenged, the offeror's ability to finance the tender offer." *Rogers*, 9 FCC Rcd. at 7355, citing *Macfadden Acquisition Corp.*, *Memorandum Opinion and Order*, 104 F.C.C.2d 545, 565-66 (1986).

In the instant situation, delay due to regulatory review of the proposed transfer of control could cause irrevocable harm to the shareholders of both MCI and WorldCom by denying MCI shareholders an opportunity for simultaneous consideration of the competing revised BT acquisition proposal terms and the WorldCom Offer.³⁶ Use of the STA and voting trust mechanism will prevent unnecessary harm to WorldCom and MCI's shareholders without prejudicing the outcome of the Commission's consideration of the transfer of control to WorldCom.³⁷

The Applicants expressly acknowledge that grant of the requested STA would be without prejudice to any future Commission decision on the application for transfer of control to the Transferee.

³⁶ A Registration Statement describing the terms of the Offer is being filed on this date with the SEC and could become effective in as little as 45 days. Similarly, the waiting period under the Hart-Scott-Rodino Act may possibly be satisfied in 30 days from the date of filing. The Commission has not viewed the pendency of such parallel proceedings as a basis for denying the use of the expedited STA processing procedures requested here. *Policy Statement*, *supra* note 14 at 1560 ("delays not attributable to [FCC] procedures are beyond the scope of [the FCC's] regulatory concern"); *Rogers*, 9 FCC Rcd. at 7363; *CNCA*, 3 FCC Rcd. 6089-90 at ¶ 16.

³⁷ *Policy Statement*, *supra* note 14 at ¶ 45; *see, e.g., JB Acquisition Corp*, 60 Rad. Reg. 2d (P & F) 1095, 1098 (1986) ("where a competing offer already exists, . . . the second offeror must be promptly empowered to present its offer to the shareholders."); *Viacom*, 8 FCC Rcd. 8439 and *QVC*, 8 FCC Rcd. 8485 (approving simultaneously the STA requests of competing offerors; Eugene McCarthy, *Memorandum Opinion and Order*, 60 Rad. Reg. 2d (P & F) 1207 (1986) and *Macfadden Acquisition Corp.*, 60 Rad. Reg. 2d (P & F) 872 (approving STA requests of competing offerors).

B. The Trustee is Eminently Qualified to Serve in that Capacity.

Professor Howard A. White, a tenured professor at St. John's University School of Law with extensive experience in communications law and the telecommunications industry generally, has agreed to serve as the independent Trustee and the proposed Step I transferee under the requested Special Temporary Authority.³⁸

Professor White is a U.S. citizen and has never been convicted of a felony by a federal or state court. He has no business or familial relationships with WorldCom, MCI, or any of their subsidiaries, or with their or their subsidiaries' officers, directors, principals, or partners. He owns no stock in either WorldCom or MCI, and he will have no beneficial interest in the tendered shares of MCI stock held in the Voting Trust.

At St. John's University, Professor White teaches courses in communications law and electronic media, administrative law, and professional ethics. Prior to commencing his current position at St. John's University School of Law, Professor White served as Executive Vice President and General Counsel of ITT Communications and Information Services, Inc., where he was responsible for, among other things, regulatory and legal compliance and overall direction and execution of the company's legal and regulatory strategy. He also held prior legal positions with COMSAT and in private practice. He served with the FCC from 1962 to 1966, where his last position was as Assistant Chief of the Common Carrier Bureau. In these positions, he gained experience with the issues and regulatory procedures related to a number of regulated telecommunications services, including common carrier regulation

³⁸ Professor White's *curriculum vitae* is attached as Exhibit IV.B.

generally; satellite, microwave, and mobile radio services; and domestic and international facilities-based carrier services. He also had administrative and managerial, as well as supervisory, responsibilities.

Prior to receiving his law degree, Professor White was employed as an electrical engineer. In addition to his law degree, Professor White also holds a Master's Degree in Public Administration.

Professor White's public service also includes past service as a Presidential appointee to the Board of Directors of the Corporation for Public Broadcasting and service as a Director of National Public Radio. Since 1989, he has also served as a member of the Visiting Committee of the University of Miami School of Communications, an uncompensated position.

As an experienced business executive, legal practitioner, and professor in the field of communications law, Professor White is familiar with the objectives and requirements of the *Policy Statement* and with the responsibilities of an interim voting trustee during a tender offer. Review of Professor White's credentials demonstrates that he is fully qualified to serve as the Trustee and to execute his responsibilities and obligations thereunder.

The Commission should therefore approve the selection of Professor White as Trustee and grant the STA and Step I Applications in an expeditious manner.